

MR. JOE J. FARMER

AUGUST 31, 1960.—Ordered to be printed

Mr. McCLELLAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 11380]

The Committee on the Judiciary, to which was referred the bill (H.R. 11380) for the relief of Mr. Joe J. Farmer, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to waive sections 15 to 20 of the Federal Employees' Compensation Act in favor of Joe J. Farmer so that he may file his claim, to be considered on its merits, for compensation for respiratory ailments brought about by reason of his employment at the Pine Bluff Arsenal, Ark., in 1942.

STATEMENT

The Department of Labor has advised the Congress that since there are precedents for such action, the Department has no objection to the enactment of the bill if the Congress finds that there are extenuating circumstances in this case justifying the waiver of time limitations for the filing of the claimant's claim to permit it to be considered on its merits.

The Department of the Army has advised the Congress that this is a matter properly within the jurisdiction of the Secretary of Labor, and the Department of the Army expresses no views concerning the merits of the bill.

The Committee on the Judiciary of the House of Representatives in its favorable report on the bill said:

The beneficiary of this legislation was employed as a chemical plant operator and foreman at the Pine Bluff Arsenal from August 6, 1942, to August 22, 1945. He was

again employed as a safety inspector at the same installation from July 23, 1951, to February 28, 1958, when his employment was terminated by a reduction in force.

On June 20, 1958, Mr. Farmer filed a claim for compensation benefits for a respiratory condition allegedly caused by exposure to toxic gases and fumes in 1942 and 1943. Because his claim was not seasonably filed it was rejected.

However, his immediate superior had actual knowledge of the injury, hence his right to medical care was not precluded, and he has been receiving such care.

Inasmuch as the claimant believed that his superiors had taken the necessary steps to preserve his right to compensation which, of course, they did not do, the committee is of the opinion that the rights of the Government will not be jeopardized and justice will be served by this legislation. The committee therefore recommends that this legislation be favorably considered.

The committee believes that the bill as recommended by the Committee on the Judiciary of the House of Representatives is meritorious and recommends it favorably.

Attached and made a part of this report are (1) a letter, dated April 26, 1960, from the Department of Labor; and (2) a letter, dated June 22, 1960, from the Department of the Army.

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U.S. DEPARTMENT OF LABOR,  
OFFICE OF THE SECRETARY,  
Washington, April 26, 1960.

Hon. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN CELLER: This is in further reply to your request for our comments on H.R. 11380, a bill for the relief of Mr. Joe J. Farmer.

H.R. 11380 is apparently intended to waive the time limitations for notice of injury and filing claim under the Federal Employees' Compensation Act in favor of Joe J. Farmer, who allegedly suffered a disability caused by his employment at the Pine Bluff Arsenal during World War II, provided that a claim is filed within 6 months from the date of enactment. No benefits would accrue by reason of the enactment of the bill for any period prior to the date of enactment.

The records of the Bureau of Employees' Compensation of this Department disclose that Joe J. Farmer was employed as a chemical plant operator and foreman at this arsenal from August 6, 1942, to August 22, 1945. He again was employed as a safety inspector at the same installation from July 23, 1951, to February 28, 1958. On the latter date his employment was terminated by a reduction in force. On June 20, 1958, Mr. Farmer filed a claim for compensation benefits for a respiratory condition allegedly caused by exposure to toxic gases and fumes in 1942 and 1943.

While the claimant was aware of his condition in 1943, he did not file his claim for compensation until 15 years later. This claim was rejected by the Bureau, since it was not filed within the maximum

period of 5 years permitted by the law. Mr. Farmer applied to the Employees' Compensation Appeals Board for review of the Bureau's action, and the Appeals Board affirmed the rejection of the claim for disability compensation in a decision dated June 9, 1959.

Investigation disclosed that the immediate superior of the claimant had actual knowledge of the injury. Since a failure to file a timely claim does not preclude the right to medical care if the immediate superior of the claimant had actual knowledge of the injury, medical treatment was approved. Accordingly, claimant has been receiving these benefits.

Generally we do not favor legislation which singles out one individual for preferential treatment from a group of persons in similar circumstances. However, if Congress finds that there are extenuating circumstances in this particular case justifying waiver of the time limitations, and since there are precedents for such action, we have no objection to such a waiver.

The Bureau of the Budget advises that it has no objection to the submission of this report.

Sincerely yours,

JAMES T. O'CONNELL,  
*Under Secretary of Labor.*

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DEPARTMENT OF THE ARMY,  
*Washington, D.C., June 22, 1960.*

HON. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,  
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H.R. 11380, 86th Congress, a bill for the relief of Mr. Joe J. Farmer.

This bill provides as follows:

"That sections 15-20 of the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes' approved September 7, 1916, as amended (5 U.S.C. 765-770), are hereby waived in favor of Mr. Joe J. Farmer so as to enable him to file a claim for compensation based upon respiratory troubles allegedly brought about by employment and duties performed at the Pine Bluff Arsenal, Arkansas, in 1942 and thereafter during World War II, and his claim is authorized and directed to be considered and acted upon under the remaining provisions of such Act, as amended, if he files such claim with the Department of Labor (Bureau of Employees' Compensation) not later than six months after the date of enactment of this Act. No benefits shall accrue by reason of the enactment of this Act for any period prior to the date of its enactment."

The Department of the Army has considered the above-mentioned bill. Information received by the Department of the Army reveals that Mr. Joe J. Farmer was employed as a chemical plant operator and foreman at Pine Bluff Arsenal, Pine Bluff, Ark., from August 6, 1942, to August 22, 1945. He was a safety inspector at that installation from June 23, 1951, to February 28, 1958, when his employment was terminated due to a reduction in force. On June 20, 1958, he filed a claim with the Bureau of Employees' Compensation for injuries

allegedly suffered due to exposure to toxic gases and fumes in 1942 and 1943. This claim was denied on November 18, 1958, because it was filed after the maximum time, 5 years, provided in the Federal Employees' Compensation Act (39 Stat. 747), as amended (5 U.S.C. 770). The Employees' Compensation Appeals Board affirmed this decision on June 9, 1959, but rules that as the superior of the claimant had knowledge of the injury, he was entitled to medical care. Mr. Farmer admits knowledge of the injury at its inception, but states that he believed that his superiors had taken the necessary steps to preserve his right to compensation.

The Federal Employees' Compensation Act (39 Stat. 747), as amended (5 U.S.C. 787), provides pertinently that—

"\* \* \* . In the absence of fraud or mistake in mathematical calculation, the finding of facts in, and the decision of the Secretary upon, the merits of any claim presented under or authorized by sections 751-756, 757-781, 783-791, and 793 of this title if supported by competent evidence shall not be subject to review by any other administrative or accounting officer, employee, or agent of the United States. \* \* \*"

In view of this provision of law it would appear that any determination as to whether the statute of limitations should be disregarded in this case is a matter properly within the exclusive jurisdiction of the Secretary of Labor and his designated representative in such matters, the Bureau of Employees' Compensation. Accordingly, the Department of the Army expresses no views concerning the merits of this bill.

The cost of this bill, if enacted, cannot be determined by this Department.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,  
*Secretary of the Army.*

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